

§ 1704.5

international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Board of a particular case of formal agency adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing; or

(j) Disclose other information for which the Government in the Sunshine Act provides an exemption to the open meeting requirements of that Act.

§ 1704.5 Procedures for closing meetings, or withholding information, and requests by affected persons to close a meeting.

(a) A majority of all Members may vote to close a meeting or withhold information pertaining to that meeting. A separate vote shall be taken with respect to any action under § 1704.4. A majority of the Board may act by taking a single vote with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular subject matters and is scheduled to be held no more than thirty days after the initial meeting in such series. Each Member's vote under this paragraph shall be recorded and proxies are not permitted.

(b) Any person whose interest may be directly affected if a portion of a meeting is open may request the Board to close that portion on any of the grounds referred to in § 1704.4 (e), (f), or (g). Requests, with reasons in support thereof, should be submitted to the General Counsel, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., suite 700, Washington, DC 20004. On motion of any Member, the Board shall determine by recorded vote whether to grant the request.

(c) Within one working day of any vote taken pursuant to this section, the Board shall make available a written copy of such vote reflecting the vote of each Member on the question, and if a portion of a meeting is to be closed to the public a full written explanation of its action closing the meeting and a list of all persons expected to attend and their affiliation.

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(d) For every closed meeting, the General Counsel of the Board shall publicly certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemption provision. If the General Counsel invokes the exemption for classified or sensitive unclassified information under § 1704.4(a), he shall rely upon the classification or designation assigned to the document containing such information by the Department of Energy or other originating agency. A copy of such certification, together with a statement setting forth the time and place of the meeting and the persons present, shall be retained by the Board as part of the transcript, recording, or minutes required by § 1704.8.

§ 1704.6 Procedures for public announcement of meetings.

(a) For each meeting, the Board shall make public announcement, at least one week before the meeting, of the:

- (1) Time of the meeting;
- (2) Place of the meeting;
- (3) Subject matter of the meeting;
- (4) Whether the meeting is to be open or closed; and

(5) The name and business telephone number of the official designated by the Board to respond to requests for information about the meeting.

(b) The one week advance notice required by paragraph (a) of this section may be reduced only if:

(1) A majority of all Members determines by recorded vote that Board business requires that such meeting be scheduled in less than seven days; and

(2) The public announcement required by paragraph (a) of this section is made at the earliest practicable time.

(c) Immediately following each public announcement required by this section, or by § 1704.7, the Board shall submit a notice of public announcement for publication in the FEDERAL REGISTER.

§ 1704.7 Changes following public announcement.

(a) The time or place of a meeting may be changed following the public

announcement only if the Board publicly announces such change at the earliest practicable time. Members need not approve such change.

(b) The subject matter of a meeting or the determination of the Board to open or to close a meeting, or a portion thereof, to the public may be changed following public announcement if:

(1) A majority of all Members determines by recorded vote that Board business so requires and that no earlier announcement of the change was possible; and

(2) The Board publicly announces such change and the vote of each Member thereon at the earliest practicable time.

(c) The deletion of any subject matter announced for a meeting is not a change requiring the approval of the Board under paragraph (b) of this section.

§1704.8 Transcripts, recordings, or minutes of closed meetings.

Along with the General Counsel's certification and presiding officer's statement referred to in §1704.5(d), the Board shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or a portion thereof, closed to the public. The Board may maintain a set of minutes in lieu of such transcript or recording for meetings closed pursuant to §1704.4(i). Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote.

§1704.9 Availability and retention of transcripts, recordings, and minutes, and applicable fees.

The Board shall make promptly available to the public in the Public Reading Room the transcript, electronic recording, or minutes of the discussion of any item on the agenda or of any testimony received at a closed meeting, except for such item, or items, of discussion or testimony as determined by the Board to contain matters which may be withheld under the exemptive provisions of §1704.4. Copies

of the nonexempt portions of the transcript or minutes, or transcription of such recordings disclosing the identity of each speaker, shall be furnished to any person at the actual cost of transcription or duplication. If at some later time the Board determines that there is no further justification for withholding a portion of a transcript, electronic recording, or minutes or other item of information from the public which has previously been withheld, such portion or information shall be made publicly available. The Board shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or a portion thereof, closed to the public for at least two years after such meeting, or until one year after the conclusion of any Board proceeding with respect to which the meeting, or a portion thereof, was held, whichever occurs later.

§1704.10 Severability.

If any provision of this part or the application of such provision to any person or circumstances, is held invalid, the remainder of this part or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

PART 1705—PRIVACY ACT

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AUTHORITY: 5 U.S.C. 552a(f).

SOURCE: 56 FR 47144, Sept. 18, 1991, unless otherwise noted.

§1705.01 Scope.

This part contains the Board's regulations implementing the Privacy Act of 1974, Public Law 93-579, 5 U.S.C. 552a.